

SAMPLE CONTRACT

WASHINGTON STATE
DEPARTMENT OF RETIREMENT SYSTEMS
PURCHASED SERVICES CONTRACT

CONTRACT NO. 00-xx

CONTRACTOR: XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

FEDERAL TAX ID: XXXXXXXX
WASHINGTON STATE UBI NO. XXXXXXXX

SPECIAL TERMS AND CONDITIONS

THIS CONTRACT, made by and between the Washington State Department of Retirement Systems, hereinafter referred to as "DRS" or the "AGENCY", and that entity whose name appears above, hereinafter referred to as the "CONTRACTOR", for the express purposes set forth in the following provisions of this contract.

WHEREAS, the purpose of this contract is to provide analysis and programming services to combine data maintained in multiple Excel spreadsheets, FoxPro and SQL tables into one unified SQL database,

NOW THEREFORE, in consideration of the terms and conditions contained herein, or attached and incorporated and made a part hereof, the AGENCY and CONTRACTOR mutually agree as follows:

1. Sufficient state resources are not available to undertake and complete such required work in the requested time period.
2. The Contractor will provide the services described in the Agency's Request for Proposals (RFP), included as Attachment A, the Contractor's Proposal, included as Attachment B, and the Contractor's Deliverable Schedule and Pricing document, included as Attachment C, all incorporated by reference herein.
3. Subject to its other provisions, the period of performance of services under this contract will be as specified in the Statement of Work included in the Agency's RFP, unless sooner terminated as provided herein.
4. All rights and obligations of the parties to this contract shall be subject to and governed by those Terms and Conditions contained in the text of this contract instrument and the General Terms and Conditions, each attached and incorporated by reference herein:
5. DRS shall pay to the Contractor for those services provided herein as specified in "GENERAL TERMS AND CONDITIONS", "PAYMENT" section.

6. In the event of an inconsistency in this contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order: (a) Applicable Federal and State of Washington statutes and regulations, (b) These Special Terms and Conditions, (c) General Terms and Conditions, (c) Contractor's Proposal, (d) Agency's RFP, and (e) any other provisions of the contract whether incorporated by reference or otherwise.
7. This Contract contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto.
8. If any provision of this contract violates any statute or rule of law of the State of Washington, it is considered modified to conform to that statute or rule of law.

GENERAL TERMS AND CONDITIONS

DEFINITIONS - As used throughout this contract, the following terms shall have the meanings set forth below:

- (a) "DRS" shall mean the Washington State Department of Retirement Systems, any division, section, office, unit, or other entity of the Department or any of the officers or other officials lawfully representing that Department.
- (b) "Contractor" shall mean that individual or other entity performing services under this contract. It shall include any subcontractor retained by the prime contractor as permitted under the terms of this Contract.
- (c) "Contracting Officer" shall mean that person appointed by DRS to approve this contract as to binding effect and thereby execute it, and to administer this contract, on behalf of DRS. The term includes, except as otherwise provided in this contract, an authorized representative of the Contracting Officer acting within the limits of his authority. The Contracting Officer is the Assistant Director of the Information Services Division of the DRS.
- (d) "Provider" shall mean the same as "Contractor" previously defined, and any reference to one shall be deemed to apply equally to the other.
- (e) "Subcontractor" shall mean one not in the employment of the Contractor, who is performing all or part of those services under this contract from the Contractor. The terms "subcontractor" and "subcontractors" mean subcontractor(s) in any tier.
- (f) "Agency" shall mean the same as "DRS" previously defined, and any reference to one shall be deemed to apply equally to the other.
- (g) "RFP" shall mean the Request for Proposals produced by the Agency expressing the Agency's needs and expectations and inviting Contractor proposals.

CHANGES AND MODIFICATIONS - The Contracting Officer may, at any time, by written notification to the Contractor and without notice to any known guarantor or surety, make changes within the general scope of the contract in the services to be performed. If any such change causes an increase or decrease in the cost of, or the time required for the performance, an equitable adjustment may be made in the contract price, or period of

performance, or both and the contract shall be modified in writing accordingly. Any claim by the Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by the Contractor of the notice of such change: Provided, however, that the Contracting Officer may, if (s) he decides that the facts justify such action, receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute concerning a question of fact within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse the Contractor from proceeding with the contract as changed.

CONFLICT OF INTEREST --- DRS may, by written notice to the Contractor:

- (a) Terminate the right of the Contractor to proceed under this contract if it is found, after due notice and hearing, by this Contracting Officer that gratuities in the form of entertainment, gifts, or otherwise, were offered or given by the Contractor to an employee of DRS, with a view towards securing a contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to this contract.
- (b) In the event this contract is terminated as provided in (a) above, DRS shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of a breach of the contract by the Contractor. The rights and remedies of DRS provided for in this clause shall not be included and are in addition to any other rights and remedies provided by law. The existence of facts upon which the Contracting Officer makes any determination under this clause shall be an issue and may be reviewed as provided in the "Disputes" clause of this Contract.

CONTRACTOR NOT EMPLOYEE OF DRS --- The Contractor, his employees or agents performing under this contract are not to be deemed to be employees of DRS, nor as agents of DRS in any manner whatsoever. The Contractor will not hold himself out as nor claim to be an officer or employee of DRS or of the State of Washington by reason hereof and will not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of DRS or of the State of Washington.

DISPUTES ---

- (a) Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by Contract shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive unless, within 30 days from the date of receipt of such copy, the Contractor mails or otherwise submits a written appeal addressed to the Director of DRS. The Director of DRS may resolve any appeal beyond that decision of the Contracting Officer. All appeals may be subject to judicial review if otherwise provided by law.
- (b) This "Disputes" clause does not preclude the consideration of questions of law in connection with decisions provided for in paragraph (a) above: Provided that nothing in this contract shall be construed as making final the decisions of any administrative official, representative, or board on a question of law.

INDEMNIFICATION --- The Contractor shall defend, protect, and save harmless DRS from and against all claims, suits and actions arising from any negligent act or omission of the Contractor or any authorized subcontractor or any employees or agent of either in the performance of this contract.

JURISDICTION --- This Contract shall be construed and interpreted in accordance with the laws of the State of Washington and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

LICENSING AND ACCREDITATION --- The Contractor agrees to comply with all state licensing standards, all applicable accrediting standards, and any other standards or criteria established by DRS to assure quality of services.

NONDISCRIMINATION IN CLIENT SERVICES --- The Contractor will not, on the grounds of age, race, color, sex, religion, ancestry, national origin, marital status, or the presence of any mental or sensory handicap:

- (a) Deny an individual any services or other benefits provided under this contract.
- (b) Provide any service(s) or other benefits to an individual which are different, or are provided in a different manner from those provided to others under this Contract.
- (c) Subject an individual to segregation or separate treatment in any matter related to his receipt of any service(s) or other benefits provided under this Contract.
- (d) Deny any individual an opportunity to participate in any program provided by this contract through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others under this contract. The Contractor, in determining (1) the types of services or other benefits to be provided, (2) the class of individuals to whom, or the situation in which, such services or other benefits will be provided, or (3) the class of individuals to be afforded an opportunity to participate in any services or other benefits, will not utilize criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their age, race, color, sex, religion, ancestry, national origin, marital status, or the presence of any mental or sensory handicap, or have the effect of defecting or substantially impairing accomplishment of the objectives of this contract in respect to individuals of a particular age, race, color, sex, religion, ancestry, national origin, marital status, or the presence of any mental or sensory handicap.

INDUSTRIAL INSURANCE COVERAGE: --- The contractor shall provide or purchase industrial insurance coverage prior to performing work under this contract. The Agency will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for this Contractor, or any Subcontractor or employee of the Contractor, which might arise under the industrial insurance laws during performance of duties and services under this contract. If the Department of Labor and Industries, upon audit, determines that industrial insurance payments are due and owing as a result of work performed under this contract, those payments shall be made by the Contractor; the Contractor shall indemnify the Agency and guarantee payment of such amounts.

PAYMENT ---

- (a) Advanced Payment Prohibited -- No payment in advance or in anticipation of services or supplies to be provided under this contract shall be made by DRS.
- (b) DRS shall make incremental payments to contractor for products and services as defined in attachment "C". Payment shall be made no later than thirty days after acceptance of the specific product or service and receipt of a properly submitted and correct invoice. Acceptance of products and services will be the sole responsibility of the contract manager. If payment(s) will be delayed due to nonperformance, written notification to the Contractor will be provided within 10 days from the receipt date of product(s) or service(s).

No more than one invoice per month will be allowed. Each invoice must include company name, address and telephone number, invoice number, federal identification number, contract number, description of specific product(s) produced, the associated payment amount(s) and an invoice total.

Invoices shall be directed to: ATTN: ITS Manager, Washington State Department of Retirement Systems, P.O. Box 48380, Olympia, Washington 98504-8380

Total payment for products and services under this contract shall not exceed \$xxxxx U.S.

RECORDS, DOCUMENTS, AND REPORTS --- The Contractor shall maintain books, records, documents, and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct

and indirect cost of any nature expended in the performance of this contract. These records shall be subject at all reasonable times for inspection, review, or audit by State personnel and other personnel duly authorized by DRS, the Office of The State Auditor, and the federal officials so authorized by the law. The Contractor will retain all books, records, documents, and other material relevant to this contract for five years after settlement, and the Office of The State Auditor, federal auditors, and any persons duly authorized by DRS) shall have full access to and the right to examine any of said materials during said period.

OWNERSHIP OF WORK PRODUCT ---

- (a) Contractor agrees that any work produced or programs developed under this contract and all rights thereto shall become and remain property of DRS. The Contractor shall not use or in any manner dispose of such work product or program to any third party without the prior written permission of DRS.
- (b) Contractor agrees to take all reasonable steps necessary to ensure that the programs or work products or any portion thereof, in any form, developed under this contract, are not made available by the Contractor or by any of his employees to any organization or individuals not included in this contract.
- (c) Contractor agrees to instruct its employees not to copy or duplicate any programs or work products or any portion thereof, in any form, or make any disclosure with reference thereto to any third party.

SAFEGUARDING OF CLIENT INFORMATION --- The use or disclosure by any party of any information concerning a recipient or client for any purpose not directly connected with the administration of DRS's or the Contractor's responsibilities with respect to services provided under this contract is prohibited except on written consent of the recipient or client, or his attorney.

SAVINGS --- In the event funding from state, federal , or other sources is withdrawn, reduced, or limited in any way after the effective date of this contract and prior to normal completion, DRS may terminate the contract under the "Termination for Convenience" clause, subject to re-negotiation under those new funding limitations and conditions.

SUBCONTRACTING --- The Contractor shall not enter into subcontracts for any of the work contemplated under this Contract without obtaining prior written approval of DRS.

TERMINATION FOR CONVENIENCE --- The Contracting Officer may, by written notice, terminate this contract, in whole or in part, when it is in the best interests of DRS. If this contract is so terminated, DRS shall be liable only for payment in accordance with the terms of this contract for services rendered prior to the effective date of termination.

TERMINATION FOR DEFAULT --- The Contracting Officer may, by written notice, terminate this contract in whole or in part, for failure of the Contractor to perform any of the provisions hereof. In such event the Contractor shall be liable for damages, including excess cost of the procuring of similar services from another source. Provided that if (i) it is determined for any reason the Contractor was not in default, or (ii) the Contractor's failure to perform is without his and/or his subcontractor's control, fault, or negligence, the termination shall be deemed to be a Termination for Convenience.

TREATMENT OF ASSETS ---

- (a) Title to all property furnished by DRS shall remain in DRS. Title to all property purchased by the Contractor, for the cost of which the Contractor is entitled to be reimbursed as a direct item of cost under this contract, shall pass to and vest in DRS upon delivery of such property by the vendor. Title to other property, the cost of which is reimbursable to the Contractor under the contract, shall pass to and vest in DRS upon (i) issuance for the use of such property in the performance of this contract, or

- (ii) commencement of use of such property in the performance of this contract, or (iii) reimbursement of the costs thereof by DRS in whole or in part, whichever first occurs.
- (b) Any property of DRS furnished to the Contractor shall, unless otherwise provided herein, or approved by the Contracting Officer, be used only for the performance of this contract.
 - (c) The Contractor shall be responsible for any loss or damage to property of DRS (including expenses entered thereunto) which results from willful misconduct or lack of good faith on the part of the Contractor or which results from the failure on the part of the Contractor to maintain and administer in accordance with sound management practices that property, to ensure that the property will be returned to DRS in like condition to that in which it was furnished to the Contractor.
 - (d) Upon the happening of loss, or destruction of, or damage to, any DRS property, the Contractor shall notify the Contracting Officer thereof and shall take all reasonable steps to protect that property from further damage.
 - (e) The Contractor shall surrender to DRS all property of DRS prior to settlement upon completion, termination, or cancellation of this Contract.
 - (f) All reference to the Contractor under this clause shall include any of his employees or agents or subcontractors.

PUBLICITY: The Contractor agrees to submit to DRS all advertising, sales promotion, and other publicity matters relating to any Product furnished by the Contractor wherein DRS or a DRS client's name is mentioned or language used from which the connection of DRS or a DRS client's name therewith may, in DRS judgment, be inferred or implied; and the Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of DRS.

IN WITNESS WHEREOF: The Agency and the Contractor have signed this Contract.

Contractor	Title	Date
Agency	Title	Date